

1 Manuel H. Miller, Esq. (SBN 36947)
2 Max A. Sauler, Esq. (SBN 62634)
3 LAW OFFICES OF MANUEL H. MILLER
4 A Professional Corporation
5 20750 Ventura Boulevard, Suite 440
6 Woodland Hills, California 91364
7 Telephone: (818) 710-9993
8 Facsimile: (818) 710-1938

9 Attorney for Plaintiff Preston Smith

10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13

14 **PRESTON SMITH, an individual,**

15 **Plaintiff,**

16 **vs.**

17 **CITY OF BURBANK, BURBANK**
18 **POLICE DEPARTMENT, BURBANK**
19 **POLICE DEPARTMENT OFFICER**
20 **GUNN; BURBANK POLICE**
21 **DEPARTMENT OFFICER**
22 **BAUMGARTEN; BURBANK**
23 **DEPARTMENT POLICE OFFICER**
24 **EDWARDS, AND DOES 1 TO 100,**
25 **inclusive**

26 **Defendants.**

Case No. CV 10-8840-VBF (AGR_x)

**REPORT OF THE PARTIES PLANNING
MEETING**

27 **TO THE ABOVE ENTITLED COURT:**

28 The parties hereto submit the instant Report of the Planning Meeting, pursuant to
F.R.C.P. 26(f) and the Court's Standing Order No. 3.

//

//

Issues Discussed Pursuant to F.R.C.P. 26(f):

- (1) *Scheduling Conference* – the parties hereto, though their attorneys of record, held the Scheduling Conference and Planning Meeting on November 24, 2010.
- (2) *Conference Content* – the parties hereto conferred with respect to those items set forth in F.R.C.P. 26(f)(2).
- (3) *Discovery Plan* –
 - (A) The parties do not anticipate changes in the timing, form or requirement for disclosures under Rule 26(a).
 - (B) The parties discussed the subjects on which discovery may be needed, including depositions of the parties and witnesses, obtaining the medical records of the plaintiff, and obtaining the personnel files of the defendant police officers. The parties determined that there is no need that discovery be conducted in phases.
 - (C) No issues as to discovery of electronically stored information came to light at the Conference.
 - (D) The issue of the privacy of the discovery of the personnel files of the defendant police officers and the defendants' claim of privilege was discussed, and the need for discovery motions to obtain these files is contemplated by the parties.
 - (E) The parties do not presently anticipate changes in the limitations on discovery imposed by the F.R.C.P. or by local rules.
 - (F) No other issues came to light.

1 (4) *Expedited Schedule* – The parties do not anticipate an expedited schedule.

2
3 **Issues Discussed Pursuant to the Court's Standing Order No. 3:**

4
5 a. *Jurisdiction* – The basis for jurisdiction is the subject matter of the
6 First Cause of Action of Plaintiff's Complaint – Violation of 42
7 U.S.C. § 1983.

8 b. *Claims and defenses* – Plaintiff claims that during an arrest he was
9 physically assaulted and battered in violation of 42 U.S.C. § 1983,
10 California *Civil Code* § 52.1 and that as a proximately result he
11 suffered severe physical injury and emotional distress. Plaintiff
12 asserts four Causes of Action, to wit., violations of 42 U.S.C. §
13 1983, California *Civil Code* § 52.1, intentional infliction of
14 emotional distress and assault and battery. Defendants deny the
15 allegations of Plaintiff's Complaint and assert Affirmative
16 Defenses, among other things, pursuant to *Monell vs. Dept. of*
17 *Social Services*, 98 S.Ct. 2018 (1978), and that the Complaint fails
18 to state facts sufficient to state causes of action under 42 U.S.C. §
19 1983 and California *Civil Code* § 52.1.

20 c. The parties propose May 27, 2011 as the discovery cut off date.
21 The parties anticipate calling expert witnesses and propose
22 September 15, 2011 as the date for disclosure of expert witnesses
23 and October 14, 2011 as the date for completion of expert witness
24 depositions.

25 d. The parties propose a trial date of November 8, 2011 and October
26 24, 2011 for the Final Pre-Trial Conference. The Plaintiff
27 anticipates 3 days for his case-in-chief and the defendants
28

1 anticipate 2 days to present their defense. The parties request a
2 jury trial.

3 e. Defendants anticipate making Motions for Summary Judgment,
4 and propose a hearing for the Motion for Summary Judgment no
5 later than July 18, 2011.

6 f. The parties propose utilization of the Magistrate for settlement
7 purposes.

8
9 Dated: December 3, 2010

LAW OFFICES OF MANUEL H. MILLER
A Professional Corporation

11 

12 Max A. Sauler, Esq.
13 Attorney for Plaintiff Preston Smith

14 Dated: December , 2010

Dennis A. Barlow, Esq.
Juli C. Scott, Esq.
Carol A. Humiston, Esq.

18 Carol A. Humiston, Esq.
19 Attorney for Defendants City of Burbank, Burbank
20 Police Department, Burbank Police Officers Adam
Baumgarten and Michael Edwards

21 D Dated: December , 2010

David D. Lawrence, Esq.
Dennis M. Gonzalez, Esq.
Nathan A. Oyster, Esq.
Lawrence, Beach, Allen & Choi, PC

25 David D. Lawrence, Esq.
26 Attorney for Defendant Burbank Police Department
27 Officer Gunn
28

1 anticipate 2 days to present their defense. The parties request a
2 jury trial.

3 e. Defendants anticipate making Motions for Summary Judgment,
4 and propose a hearing for the Motion for Summary Judgment no
5 later than July 18, 2011.

6 f. The parties propose utilization of the Magistrate for settlement
7 purposes.
8

9 Dated: December , 2010

LAW OFFICES OF MANUEL H. MILLER
A Professional Corporation

12
13 Max A. Sauler, Esq.
Attorney for Plaintiff Preston Smith

14 Dated: December 3, 2010

15 Dennis A. Barlow, Esq.
16 Juli C. Scott, Esq.
17 Carol A. Humiston, Esq.

18 Carol A. Humiston, Esq.
19 Attorney for Defendants City of Burbank, Burbank
20 Police Department, Burbank Police Officers Adam
Baumgarten and Michael Edwards

21 D Dated: December , 2010

22 David D. Lawrence, Esq.
23 Dennis M. Gonzalez, Esq.
24 Nathan A. Oyster, Esq.
25 Lawrence, Beach, Allen & Choi, PC

26 David D. Lawrence, Esq.
27 Attorney for Defendant Burbank Police Department
28 Officer Gunn

1 anticipate 2 days to present their defense. The parties request a
2 jury trial.

3 e. Defendants anticipate making Motions for Summary Judgment,
4 and propose a hearing for the Motion for Summary Judgment no
5 later than July 18, 2011.

6 f. The parties propose utilization of the Magistrate for settlement
7 purposes.

8
9 Dated: December , 2010

LAW OFFICES OF MANUEL H. MILLER
A Professional Corporation

12
13

Max A. Sauler, Esq.
Attorney for Plaintiff Preston Smith

14 Dated: December , 2010

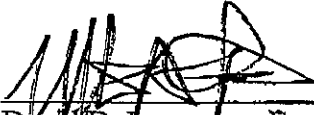
Dennis A. Barlow, Esq.
Juli C. Scott, Esq.
Carol A. Humiston, Esq.

18

Carol A. Humiston, Esq.
Attorney for Defendants City of Burbank, Burbank
19 Police Department, Burbank Police Officers Adam
20 Baumgarten and Michael Edwards

21 D Dated: December 3, 2010

David D. Lawrence, Esq.
Dennis M. Gonzalez, Esq.
Nathan A. Oyster, Esq.
Lawrence, Beach, Allen & Choi, PC

24 
25

David D. Lawrence, Esq.
26 Attorney for Defendant Burbank Police Department
27 Officer Gunn
28